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11 Email: [brigo@blwmlawfirm.com](mailto:brigo@blwmlawfirm.com)

12 Attorneys for Defendant,  
13 Bodega Latina Corporation  
14 dba El Super

15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 GINA ALCANTARA, an Individual,

18 Case No.: 2:18-cv-00882-JAD-DJA

19 Plaintiff,

20 vs.  
21  
22 **REQUEST FOR EXCEPTION FROM**  
**ATTENDANCE AT THE**  
**SETTLEMENT CONFERENCE OF**  
**JULY 9, 2020**

23 BODEGA LATINA CORPORATION, d/b/a  
24 EL SUPER, a California Corporation;  
25 DOES I-X; and ROE BUSINESS  
26 ENTITIES XI-XX, inclusive,

27 Defendants.

28 COMES NOW Defendant BODEGA LATINA CORPORATION, by and through its  
29 counsel of record, Michael C. Mills, Esq. and hereby requests an exception from the  
30 requirement of attending the upcoming Settlement Conference scheduled for July 9,  
31 2020 at 10:00 a.m. to be conducted by the United States Magistrate Judge Daniel

32 REQUEST FOR EXCEPTION FROM ATTENDANCE AT SETTLEMENT CONFERENCE

1 Albregts via remote conferencing technology.

2 **DECLARATION OF MICHAEL C. MILLS, ESQ. IN SUPPORT OF BODEGA LATINA**  
3 **CORPORATION'S REQUEST FOR EXEMPTION FROM ATTENDANCE AT**  
4 **SETTLEMENT CONFERENCE**

5 I, Michael C. Mills, Esq., hereby declare under penalty of perjury:

6 1. I am counsel for Defendant Bodega Latina Corporation.

7 2. I am familiar with the facts and issues that are the subject of this  
declaration.

8 3. On the date of loss, Bodega Latina Corporation had a \$1,000,000 "each  
9 occurrence" policy limit that covers the subject date of loss. The policy  
10 had a \$2,000,000 "general aggregate". The policy included a Self-Insured  
11 Retainer of \$300,000. The policy was issued by First Specialty Insurance  
12 Company. A copy of the subject policy declaration page is attached as  
13 Exhibit A.

14 4. Plaintiff's most recent computation of damages pursuant to Fed. R. Civ. P.  
15 26(a)(1)(A)(iii) identified Plaintiff's past medical specials as \$122,305.01.  
16 On August 6, 2019, Plaintiff submitted a demand to settle this case in the  
17 amount of \$995,000.00. A copy of Plaintiff's demand is attached as  
18 Exhibit B.

19 5. On March 25, 2020, the parties participated in a mediation conducted by  
20 mediator Paul Haire. At that mediation, Plaintiff's last demand was  
21 \$895,000.00. The matter did not resolve at the mediation.

22 6. On or about December 9, 2019, the general aggregate limit for the subject  
23 policy period was breached. Per the policy, this shifts the primary  
24 obligation for costs of defense and indemnity from Bodega Latina to First  
25 Specialty Insurance Company.

26 7. First Specialty's representative will attend the Settlement Conference with  
27 the authority as ordered by the court.

28 REQUEST FOR EXCEPTION FROM ATTENDANCE AT SETTLEMENT CONFERENCE

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8. This court previously granted an exception to Bodega Latina's Request for Exception from attendance at this Court's settlement conference set for March 25, 2020 which did not proceed. [ECF 64 & 65].

THIS DECLARANT FURTHER SAYETH NAUGHT

DATED June 18, 2020

40  
McC. Mills  
MICHAEL C. MILLS, ESQ.

## POINTS & AUTHORITIES

10 Plaintiff's Complaint alleges that she slipped and fell in Defendant Bodega  
11 Latina's El Super grocery store on May 5, 2016.

12 On that date, Defendant's store was covered by a liability insurance policy issued  
13 by First Specialty Insurance Company. The First Specialty Policy included a  
14 \$1,000,000 "each occurrence" limit and a \$2,000,000 "general aggregate". The policy  
15 included a \$300,000 Self Insured Retainer for Defense and Loss Expenses. The policy  
16 year ran from October 31, 2015 through October 31, 2016.

17 In her most recent Computation of Damages, Plaintiff's past medical special  
18 damages amount to \$122,305.01. Plaintiff is claiming past wage loss of \$19,118.99. At  
19 a mediation held before mediator Paul Haire, the Plaintiff's last demand was  
20 \$895,000.00 to settle the case.

21 On or about December 9, 2019, Bodega Latina breached the "general aggregate"  
22 limit as a result of Bodega Latina expending defense costs and making settlement  
23 payments for losses that fell within the policy year. Once the general aggregate limit  
24 was breached, the costs of the defense of this case and the primary obligation to  
25 negotiate settlement shifted from Bodega Latina Corporation to First Specialty.

26 The Court's Order requires parties and insurance representatives to attend the  
27 conference. [ECF 90]. Any party seeking an exception from the Court's Order must  
28 apply to the court to gain such an exception.

REQUEST FOR EXCEPTION FROM ATTENDANCE AT SETTLEMENT CONFERENCE

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1 Michael C. Mills, Esq. of Bauman, Loewe, Witt & Maxwell, who is involved with all  
2 aspects of the case and is familiar with all of the relevant issues will be in attendance in  
3 person representing the defendant. A representative from First Specialty Insurance  
4 Company will be in attendance in person and will have the settlement authority within  
5 the policy limit as obliged by the court. First Specialty's representative will attend in  
6 person and will negotiate in an attempt to resolve the matter.

7 Defendant Bodega Latina Corporation asks it be exempted from attending the  
8 settlement conference. The request is based on the following factors:

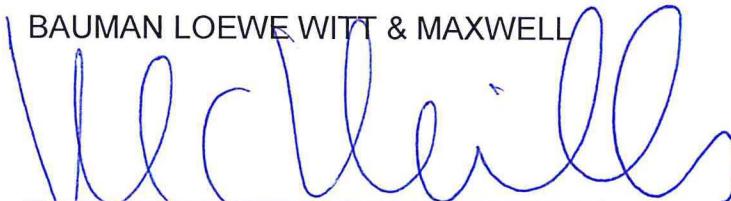
9

- 10 • First Specialty has taken over the handling of this matter including having  
the requisite settlement authority to settle if possible.
- 11 • The Court considered and granted an exception for Bodega Latina  
Corporation to attend the March 25, 2020 Settlement Conference which  
was vacated and is now rescheduled. [ECF 64 & 65].

12

13 For these reasons, Defendant renews its request to be exempted from  
14 attendance at the Settlement Conference set for July 9, 2020.

15 DATED the 18<sup>th</sup> day of June, 2020.

16 BAUMAN LOEWE WITT & MAXWELL  
17   
18  
19 MICHAEL C. MILLS, ESQ.  
20 Nevada Bar No. 003534  
21 3650 N. Rancho Dr., Ste. 114  
22 Las Vegas, NV 89130

23 **IT IS SO ORDERED**

24 DATED this 19th day of June, 2020.

25   
26  
27 Daniel J. Albrecht  
28 United States Magistrate Judge

REQUEST FOR EXCEPTION FROM ATTENDANCE AT SETTLEMENT CONFERENCE

1 Submitted by:

2 BAUMAN LOEWE WITT & MAXWELL

3

4 MICHAEL C. MILLS, ESQ.

5 Nevada Bar No. 003534

6 3650 N. Rancho Dr., Ste. 114

7 Las Vegas, NV 89130

8 Attorneys for Defendant

9 BODEGA LATINA CORP.

10 \_\_\_\_\_

11 A Policy Declaration Page.

12 B Demand Email.

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REQUEST FOR EXCEPTION FROM ATTENDANCE AT SETTLEMENT CONFERENCE

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## **INDEX OF EXHIBITS**

**Exhibit A - Policy Declaration Page**

**Exhibit B - Demand Email**

# EXHIBIT “A”

## **POLICY DECLARATION PAGE**

EXHIBIT “A”

**First Specialty Insurance Corporation**

Policy Number: IRA 2000024 03

Renewal of Number: IRA 2000024 02

**COMMON POLICY DECLARATIONS**

Administrative Address: 5200 Metcalf Avenue, Overland Park, KS 66202  
 Domiciliary Address: 237 East High Street, Jefferson City, MO 65102

Item 1. Named Insured and Mailing Address	Agent Name and Address
BODEGA LATINA CORPORATION DBA EL SUPER 14601-B LAKEWOOD BLVD. PARAMOUNT, CA 90723	WORLDWIDE FACILITIES, LLC. 450 SANSOME ST. SUITE 1000 SAN FRANCISCO, CA 94111
Item 2. Policy Period: From: October 31, 2015 at 12:01 A.M., Standard Time at your mailing address shown above	To: October 31, 2016
Item 3. Business Description: Supermarkets	Form of Business: Corporation
Item 4. In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.	
This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.	
<b>Coverage Part(s)</b>	<b>Premium</b>
Commercial Property Coverage Part	N/A
Commercial General Liability Coverage Part	██████████
Commercial Crime Coverage Part	N/A
Commercial Inland Marine Coverage Part	N/A
Commercial Auto (Business or Truckers) Coverage Part	N/A
Liquor Liability Coverage Form	██████████
Garage Coverage Form	N/A
Total Deposit Premium:	██████████
Minimum Earned Premium %: 25.0	Minimum Premium: ██████████
Item 5. Forms and Endorsements	
Form(s) and Endorsement(s) made a part of this policy at time of issue: See Schedule of Forms and Endorsements CA Surplus Lines Tax & Fee Breakdown	
Premium:	██████████
Company Fee:	\$ _____
Inspection Fee:	\$ _____
3% State Tax:	\$ ██████████
.200% Stamping Fee:	\$ ██████████
Broker Fee:	\$ _____

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE-NUMBERED POLICY.

## *First Specialty Insurance Corporation*

### COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

POLICY NO: IRA 2000024 03

**NAMED INSURED:**

BODEGA LATINA CORPORATION  
DBA EL SUPER

**LIMITS OF INSURANCE:**

GENERAL AGGREGATE LIMIT (Other Than Products/Completed Operations)	\$2,000,000
PRODUCTS - COMPLETED OPERATIONS AGGREGATE LIMIT	\$2,000,000
PERSONAL & ADVERTISING INJURY LIMIT	\$1,000,000
EACH OCCURRENCE LIMIT	\$1,000,000
DAMAGE TO PREMISES RENTED TO YOU LIMIT	\$100,000
MEDICAL EXPENSE LIMIT - Any One Person	Excluded

DEDUCTIBLE  SELF-INSURED RETENTION      applicable to:

Defense and Loss  Loss Only

\$300,000       per claim       per occurrence      \$6,000,000 annual aggregate

**RETROACTIVE DATE**

COVERAGE A and B of this insurance do not apply to "bodily injury" or "property damage," "personal and advertising injury" which occurred before the Retroactive Date, if any, shown below.

Retroactive Date: None  
(Enter Date or "None" if no Retroactive Date applies.)

Extended Reporting Period Charge: \_\_\_\_\_ %      For \_\_\_\_\_ - year period.

Classification	Code No.	Exposure Basis	Estimated Exposure	Rate	Deposit Premium
SUPERMARKETS	18501	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Premium Subject to Audit?  Yes  No

Frequency of Audit:  Annual  Quarterly  Monthly

THESE DECLARATIONS ARE PART OF THE COMMON POLICY DECLARATIONS  
CONTAINING THE NAMED INSURED AND THE POLICY PERIOD.

# EXHIBIT “B”

## **DEMAND EMAIL**

EXHIBIT “B”

**From:** Will Sykes <[WSykes@claggettlaw.com](mailto:WSykes@claggettlaw.com)>  
**Sent:** Tuesday, August 6, 2019 2:45 PM  
**To:** Bernadette Rigo <[brigo@blwmlawfirm.com](mailto:brigo@blwmlawfirm.com)>  
**Cc:** Geordan Logan <[Glogan@claggettlaw.com](mailto:Glogan@claggettlaw.com)>  
**Subject:** Alcantara - For Settlement Purposes Only

Bernadette:

I've received authority from my client to make a demand of \$995,000 to settle her case.

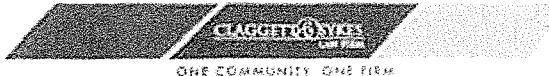
Also, I believe we have to engage in a mandatory settlement conference at some point before trial, and my client would be willing to do a private mediation.

Let me know your client's response. Thanks.

- Will

William T. Sykes, Esq.  
Partner

4101 Meadows Lane, Suite 100  
Las Vegas, NV 89107  
P: (702) 655-2346  
F: (702) 655-3763  
[wsykes@claggettlaw.com](mailto:wsykes@claggettlaw.com)



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